

MONTANA LEGISLATIVE HISTORY

Chapter 198 19 81

Bill H _____ S 14

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) Mar 06 ☒ c

Mar 10 ☒ c

_____ ☐ c

_____ ☐ c

Date Out Mar 10 ☒ c

S. Committee on Judiciary

Hearing Date(s) Jan 09 ☒ c

Jan 13 ☒ c

Jan 22 ☒ c

Jan 23 ☒ c

Feb 04 ☒ c

Feb 09 ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SB 14 -- TOWE -- AMENDING 46-18-201 PROVIDING FOR FINES AND ASSESSMENT OF COSTS IN FELONY CRIMINAL CASES....

PREFILED AND REFERRED TO COMMITTEE ON JUDICIARY: 12/30/80

HEARING: 1/9

REPORT: 2/9, DO PASS AS AMENDED

2ND READING: 2/11, YEAS: 47; NAYS: 2

3RD READING: 2/13, YEAS: 46; NAYS: 1

TRANSMITTED TO HOUSE: 2/13

REFERRED TO COMMITTEE ON JUDICIARY: 2/14

HEARING: 3/6

REPORT: 3/10, BE CONCURRED IN

2ND READING: 3/12, YEAS: 71; NAYS: 13

SEGREGATED: 3/12

ON MOTION, 3/14, PASSED FOR THE DAY.

2ND READING: 3/18, BE NOT CONCURRED IN -- YEAS: 39; NAYS: 53

BE CONCURRED IN -- YEAS: 56; NAYS: 37

3RD READING: 3/20, YEAS: 78; NAYS: 15

RETURNED TO SENATE: 3/20

TRANSMITTED TO GOVERNOR: 3/26/81

ACTION: 3/31, SIGNED

CHAPTER 198

SB 15 -- MAZUREK -- AMENDING 17-5-102 TO ELIMINATE INTEREST RATE CEILING ON POLITICAL SUBDIVISION BONDS.

PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/12; 1/28

REPORT: 2/21, DO PASS AS AMENDED

2ND READING: 2/24, DO PASS AS AMENDED

3RD READING: 2/25, YEAS: 33; NAYS: 17

TRANSMITTED TO HOUSE: 2/25

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/2

HEARING: 3/9

REPORT: 3/9, BE CONCURRED IN, AS AMENDED

2ND READING: 3/11, AS AMENDED, YEAS: 76; NAYS: 6

3RD READING: 3/14, YEAS: 83; NAYS: 11

RETURNED TO SENATE WITH AMENDMENTS: 3/14

2ND READING: 3/18, BE NOT CONCURRED

ON MOTION, 3/18, REFERRED TO CONFERENCE COMMITTEE

CONFERENCE COMMITTEE REPORT: 3/24

SENATE

2ND READING: 3/26, DO PASS

ON MOTION, 3/27, RECONSIDERED, REJECTED CONFERENCE COMMITTEE REPORT

ON MOTION, 3/27, FREE JOINT CONF. COMMITTEE APPOINTED

ON MOTION, 3/27, THE HOUSE RECONSIDERED ITS ACTION IN ACCEPTING THE CONFERENCE COMMITTEE REPORT. YEAS: 89 NAYS: 0

ON MOTION, 3/27, THE CONFERENCE COMMITTEE WAS DISSOLVED AND A FREE CONFERENCE COMMITTEE WAS APPOINTED.

FREE CONFERENCE COMMITTEE REPORT: 3/27

2ND READING: 3/28, YEAS: 77; NAYS: 0

3RD READING: 3/28, YEAS: 75; NAYS: 0

SENATE

2ND READING: 3/28, BE CONCURRED IN

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

<u>SENATE</u> BILL NO.	<u>ENTERED</u> COMM.	<u>DATE</u> CONSIDERED	<u>OUT OF</u> COMM.	<u>DO PASS</u> DATE	<u>DO NOT</u> PASS DATE	<u>DO PASS</u> AS AMEND. DATE	<u>BE CON-</u> CURRED IN DATE	<u>BE CONC. IN</u> AS AMENDED DATE	<u>BE NOT CON-</u> CURRED IN DATE
SB 8	1/05/81	1/06/81	1/08/81	1/08/81					
SB 10	1/06/81	1/14/81	1/19/81		1/19/81				
SB 14	1/05/81	1/09/81	2/07/81			2/07/81			
SB 24	1/05/81	1/09/81	2/02/81			2/02/81			
SB 27	1/05/81	1/06/81	1/08/81			1/08/81			
SB 29	1/05/81	2/12/81	2/14/81			2/14/81			
SB 33	1/13/81	2/11/81	2/18/81			2/18/81			
SB 36	1/05/81	1/08/81	1/08/81	1/08/81					
SB 38	1/05/81	1/12/81	2/04/81			2/04/81			
SB 40	1/05/81	1/09/81	1/15/81		1/15/81				
SB 43	1/05/81	1/12/81	1/13/81	1/13/81					
SB 45	1/05/81	1/15/81	1/19/81		1/19/81				
SB 57	1/16/81	2/05/81	2/11/81			2/11/81			
SB 63	1/05/81	1/13/81	1/19/81	1/19/81					
SB 75	1/08/81	1/12/81	1/13/81	1/13/81					
SB 76	1/08/81	1/13/81	1/19/81		1/19/81				

Use a separate sheet for Senate, House Bills, and Resolutions.

SENATE BILL NO. 14

INTRODUCED BY TOWE

BY REQUEST OF COMMITTEE
ON CORRECTIONS POLICY AND FACILITY NEEDS

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Judiciary.
February 9, 1981	Committee recommend bill do pass as amended. Report adopted.
February 10, 1981	Bill printed and placed on members' desks.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Judiciary.
March 11, 1981	Committee recommend bill be concurrent in. Report adopted.
March 12, 1981	Second reading, concurred in. Bill segregated.
March 14, 1981	Motion pass consideration.
March 18, 1981	Second reading, bill concurred in.
March 20, 1981	Third reading, concurred in. Ayes, 78; Noes, 15.

IN THE SENATE

Feb 21, 1981

Returned from House. Con-
curred in. Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 14
2 INTRODUCED BY TOWE
3 BY REQUEST OF COMMITTEE
4 ON CORRECTIONS POLICY AND FACILITY NEEDS
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND
7 ASSESSMENT OF COSTS IN FELONY CRIMINAL CASES; ALLOWING
8 COMMUNITY SERVICE AS A CONDITION OF DEFERRED OR SUSPENDED
9 SENTENCES; AMENDING SECTION 46-18-201, MCA."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Fines in felony cases. (1)
13 Whenever, upon a verdict or a plea of guilty, a person has
14 been found guilty of an offense for which a felony penalty
15 could be imposed, the court may impose a fine. Except as
16 provided in 45-5-103(2), 45-5-202(2), 45-5-302(2),
17 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
18 and (3), 45-9-102(3), and 45-9-103(2), a fine may be imposed
19 in lieu of or in addition to a sentence of imprisonment.
20 (2) The court may not sentence a defendant to pay a
21 fine unless the defendant is or will be able to pay the
22 fine. In determining the amount and method of payment, the
23 court shall take into account the nature of the crime
24 committed, the financial resources of the defendant, and the
25 nature of the burden that payment of the fine will impose.

1 (3) The fine shall be in an amount fixed by the court.
2 NEW SECTION. Section 2. Payment of costs by defendant.
3 (1) A court may require a convicted defendant in a felony
4 case to pay costs, as defined in 25-10-201, plus costs of
5 jury service as a part of his sentence. Such costs shall be
6 limited to expenses specifically incurred by the prosecution
7 in connection with the proceedings against the defendant.
8 (2) The court may not sentence a defendant to pay costs
9 unless the defendant is or will be able to pay them. In
10 determining the amount and method of payment of costs, the
11 court shall take into account the financial resources of the
12 defendant and the nature of the burden that payment of costs
13 will impose.
14 (3) A defendant who has been sentenced to pay costs and
15 who is not in default in the payment thereof may at any time
16 petition the court that sentenced him for remission of the
17 payment of costs or of any unpaid portion thereof. If it
18 appears to the satisfaction of the court that payment of the
19 amount due will impose manifest hardship on the defendant or
20 his immediate family, the court may remit all or part of the
21 amount due in costs or modify the method of payment.
22 NEW SECTION. Section 3. Fine or costs as a condition
23 on suspended or deferred sentence. (1) Whenever a defendant
24 is sentenced to pay a fine or costs under [section 1 or 2]
25 and the imposition or execution of the rest of his sentence

1 is deferred or suspended, the court may make payment of the
2 fine or costs a condition for probation.

3 (2) A suspended or deferred sentence may not be revoked
4 if the defendant defaults on the payment of the fine and the
5 default is not attributable to an intentional refusal to
6 obey the order of the court or a failure to make a good
7 faith effort to make the payment.

8 NEW SECTION. Section 4. When payment of fine or costs
9 due. Whenever a defendant is sentenced to pay a fine or
10 costs under [section 1 or 2], the court may grant permission
11 for payment to be made within a specified period of time or
12 in specified installments. If no such permission is included
13 in the sentence, the payment is due immediately.

14 NEW SECTION. Section 5. Disposition of money collected
15 as fines and costs. The money collected by a court as a
16 result of the imposition of fines or assessment of costs
17 under the provisions of [sections 1 and 2] shall be paid to
18 the county general fund of the county in which the court is
19 held.

20 Section 6. Section 46-18-201, MCA, is amended to read:

21 "46-18-201. Sentences that may be imposed. (1) Whenever
22 a person has been found guilty of an offense upon a verdict
23 or a plea of guilty, the court may:

24 (a) defer imposition of sentence, excepting sentences
25 for driving under the influence of alcohol or drugs, for a

1 period not exceeding 1 year for any misdemeanor or for a
2 period not exceeding 3 years for any felony. The sentencing
3 judge may impose upon the defendant any reasonable
4 restrictions or conditions during the period of the deferred
5 imposition. Such reasonable restrictions or conditions may
6 include:

7 (i) jail base release;

8 (ii) jail time not exceeding 90 days;

9 (iii) conditions for probation;

10 (iv) restitution;

11 (v) payment of a fine as provided in [section 1];

12 (vi) payment of costs as provided in [sections 2 and 3];

13 (vii) community service;

14 ~~(viii)~~ (viii) any other reasonable conditions considered
15 necessary for rehabilitation or for the protection of
16 society; or

17 ~~(viii)(ix)~~ (viii)(ix) any combination of the above;

18 (b) suspend execution of sentence up to the maximum
19 sentence allowed for the particular offense. The sentencing
20 judge may impose on the defendant any reasonable
21 restrictions or conditions during the period of suspended
22 sentence. Such reasonable restrictions or conditions may
23 include any of those listed in subsections (1)(a)(i) through
24 ~~(viii)(ix)~~ (1)(a)(ix).

25 (c) impose a fine as provided by law for the offense;

1 (d) require payment of costs as provided in (section

2 2)i

3 ~~(d)~~(e) commit the defendant to a correctional
4 institution with or without a fine as provided by law for
5 the offense;

6 ~~(e)~~(f) impose any combination of subsections (1)(b),
7 ~~(1)(c), and (1)(d)~~ through (1)(e).

8 (2) If any restrictions or conditions imposed under
9 subsection (1)(a) or (1)(b) are violated, any elapsed time,
10 except jail time, is not a credit against the sentence
11 unless the court orders otherwise.

12 (3) Except as provided in 46-18-222, the imposition or
13 execution of the first 2 years of a sentence of imprisonment
14 imposed under the following sections may not be deferred or
15 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
16 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
17 and (3), 45-9-102(3), and 45-9-103(2).

18 (4) Except as provided in 46-18-222, the imposition or
19 execution of the first 10 years of a sentence of
20 imprisonment imposed under 45-5-102(2) may not be deferred
21 or suspended."

22 Section 7. Codification instruction. It is intended
23 that sections 1 through 5 be codified as an integral part of
24 Title 46, chapter 18, and the provisions of Title 46,
25 chapter 18, apply to sections 1 through 5.

-End-

SB14

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 9, 1981

Page 1.

The third meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 24:

AN ACT TO ELIMINATE EXEMPTIONS FROM
JURY SERVICE AND CLARIFY WHEN A JUROR
MAY BE EXCUSED.

Senator Bill Hafferman, of Lincoln County, representing District 11, introduced the bill, and read letters of support from District Judge Robert M. Holter (Exhibit A), and County Attorney for Lincoln County, William A. Douglas (Exhibit B). These letters are attached to the minutes. Senator Hafferman then spoke in favor of the bill himself. There were no opponents.

Senator Olson opened questioning by referring to the legitimacy of a doctor's asking to be excused from jury duty. Senator Crippen added that he felt the bill as proposed went too far in limiting the discretion of the judge to excuse potential jurors. Senator S. Brown said that, in light of Senator Crippen's remarks perhaps an introductory phrase should be added, stating that if a potential juror satisfies certain criteria he could be exempt, but exemption would not be mandatory because of his profession.

Senator Anderson stated that this bill should not repeal Section 3-15-314, which states that if a person has great hardship, an affidavit would provide the means to get before the court.

J. C. Weingartner, representing Montana's State Bar Association, stated that although a separate bill brought by the clerks of court would change the duties of the clerks of court somewhat, the exemptions in Sections 3-15-311 would be left intact. Senator Hafferman said that he would leave it to this committee to establish whether the other bill under consideration would adequately address the matter he brought up in Senate Bill 24.

CONSIDERATION OF SENATE BILL 40:

AN ACT TO REQUIRE PLAINTIFFS WHO
RESIDE OUTSIDE OF MONTANA TO BEAR
JURORS' COSTS WITHOUT RECOVERY IN
ACTIONS WHICH COULD HAVE BEEN PURSUED
OUTSIDE MONTANA.

Senator Bill Hafferman read a letter of support on this bill from District Judge Holter (Exhibit C), which is attached to these minutes. Other than the testimonial letter, Senator Hafferman had no remarks on the bill other than to say that as a taxpayer he would appreciate passage of it.

Mike Steven, Executive Director of the Association of Counties, stated that his organization was very much in favor of the bill because of the tax dollars it would return to the counties.

J. C. Weingartner said that the State Bar neither supports nor opposes the bill, but feels that it might be unconstitutional.

There were no opponents to the bill.

Discussion among the committeemen centered around the specific problems arising which might dictate a need for this bill, and whether or not the bill was really needed. In response to a suggestion from Senator B. Brown, Senator Hafferman agreed to do further research into why a need exists for the bill.

CONSIDERATION OF SENATE BILL 14:

AN ACT PROVIDING FOR FINES AND ASSESSMENT
OF COSTS IN FELONY CRIMINAL CASES;
ALLOWING COMMUNITY SERVICE AS A CONDITION
OF DEFERRED OR SUSPENDED SENTENCES.

Senator Tom Towe, of Billings, took the committee through each section briefly and summarized the effect it would have.

Tom Honzel, of the County Attorney's office, spoke in favor of the bill. He pointed out that in some situations the victim of a crime does not want the defendant to go to prison. In those instances the judge is left with deferring or suspending sentence. He feels that this bill would make the sentencing process more meaningful. He also suggested that there should perhaps be a maximum amount of fine specified in the bill.

Mike Steven stated that the Association of Counties

supports this bill because of the option it gives the justice system, and because it saves the taxpayers money if a defendant were to pay a fine rather than go to jail. He pointed out that the cost to the county of keeping an individual in jail runs as high as sixteen to thirty dollars per day. In addition, the county would realize some reimbursement from the fines levied.

Senators Mazurek and Towe agreed that the crime of sexual assault should also be an exemption to the imposition of a fine in lieu of or in addition to a sentence.

Karen Mikota, representing the League of Women Voters, stated that the League also supports this bill.

There being no opponents to the bill, or further discussion, the meeting was adjourned at 10:57.

A handwritten signature in cursive script, appearing to read "Nick Anderson", is written over a horizontal line.

Senator Anderson
Chairman, Judiciary Committee

COMMITTEE

BILL SB 14

VISITORS' REGISTER

DATE 1/09/81

SB 24

~~SB 40~~

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT	OPPO

Keith A. Kirkpatrick	Don - Tom Lowe
----------------------	----------------

14

✓

JEFF GINALIAS

Ken Bob Brown

JIM FERRON

SECRETARY OF THE SENATE

10M Holzpel

County Attorney

14



Shantini Kumbhar

League of Women Voters

14-210

Karan Ankita

31

(14) support

J. C. WINGGATE

State Bar of NY.

40

Robert Melgaard

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 13, 1981

Page 1.

The fifth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 63:

AN ACT TO CONFORM THE STATUTES REGARDING
AMENDMENT OF CHARGES IN CRIMINAL CASES
TO CASE LAW.

Senator Mazurek, representing District 16, introduced the bill at the request of the Attorney General. Citing the case of State vs. Cardwell (reference Exhibit A, attached to these minutes), Chris Tweeten, from the Attorney General's office, spoke in support of conforming Montana's statutes with case law, as did Tom Honzel, of the County Attorney's office.

There were no opponents, and no questions.

CONSIDERATION OF SENATE BILL 76:

AN ACT AMENDING SECTION 19-5-103, MCA,
TO PERMIT A RETIRED JUDGE OR JUSTICE TO
SUSPEND PAYMENT OF HIS BENEFIT ALLOWANCE
UNDER THE JUDGES' RETIREMENT SYSTEM AND
NOT BE SUBJECT TO A CALL FOR DUTY DURING
THIS SUSPENSION.

This bill was sponsored by Senator Crippen, of Billings, Senate District 33. He stated that he could think of three reasons why a judge might want to suspend his retirement -- because of tax ramifications; to get another job which might make him subject to the criticism of double dipping; or if he just didn't want to be a judge anymore.

Questions centered around problems which might be caused by a judge's deciding to elect in and out of the retirement program as his needs changed, whether this might cause a shortage of judges available to hear water rights adjudications, and whether or not the bill really was needed. In summation, Senator Crippen stated that there probably was a need for its passage, to clarify and codify into statute that which is

Senator Anderson said that if we do away with a list of exemptions the affidavit must be mandatory in order for the judge to have something to use as a basis for his decision.

Senator Berg said that before our staff member is directed to do extensive research on the bill, this committee should decide whether or not they feel it stands a chance of passage.

DISPOSITION OF SENATE BILL 75:

Senator S. Brown moved that this bill receive a DO PASS. His motion was seconded, and passed unanimously. It was unanimously voted to have this bill placed on the Consent Calendar.

FURTHER CONSIDERATION OF SENATE BILL 40:

Senator Olson stated that he tends to be against passage of a law which would benefit one person.

Senator Crippen said that the committee should decide whether or not the bill's proponent, Senator Hafferman, would be able to bring back anything which would influence the committee enough to pass it.

Senator Anderson said that as a courtesy he would delay disposition of the bill until notifying Senator Hafferman of its probable failure.

FURTHER CONSIDERATION OF SENATE BILL 14:

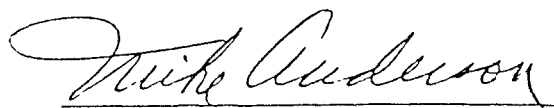
Previous discussion on this bill concerned the fact that sexual assault had been omitted as an exclusion to the crimes which could be punished with either or both a fine and a prison sentence.

Senator Mazurek quoted Tom Honzel as saying that no maximum on the fine limit left a situation where a defendant could not be advised of his probable punishment. He felt that a maximum amount of fine should be included.

Senator Anderson asked David Niss to write an amendment adding sexual assault and to clarify the provision for both a fine and imprisonment in the case of crimes against a person, and to include a maximum fine.

Senator S. Brown suggested a maximum of fifty thousand dollars, a sum which was unanimously approved.

The meeting adjourned at 11:49 a.m.



Senator Anderson
Chairman, Judiciary Committee

Exhibit

PROPOSED AMENDMENTS TO SB 14

1. Title, line 7
Following: "cases"
Insert: "and misdemeanor cases"
2. Page 1, line 12
Following: "cases"
Insert: "and misdemeanor cases"
3. Page 1, line 14.
Following: "felony"
Insert: "or misdemeanor"
4. Page 2.
Following: line 3
Insert: "or misdemeanor"

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 22, 1981

Page 1.

The eleventh meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 119:

Senator Don Ochsner, District 26, Miles City, presented the bill for the clerks of district court. He stated that this bill would simplify some of the duties of the clerks of the district court.

Dan Bockvich, one of the clerks of court present, presented written testimony (marked Exhibit A and attached to these minutes).

Clara Gilreath, Clerk of District Court in Helena went on record as supporting the bill.

Senator Mazurek asked if the Supreme Court Administrator had any objections to the bill, and was told by Mr. Bockvich that there were no such objections.

CONSIDERATION OF SENATE BILL 120:

Senator Ochsner presented this bill on behalf of the clerks of district court. He pointed out that the bill suggested a change in jury selection and in jury pay.

Florence McGiboney, Cascade Clerk of District Court, stated that the clerks of court wanted to be appointed jury commissioners so that the judges would not be the only ones able to excuse a juror. She also stated that they would prefer that there be no categories of automatic exemption.

Lorraine Van Ausdol, Clerk of Court in Gallatin County, spoke in favor of each section of the bill. She stressed that the changes suggested in the bill would free district judges from many of their more mundane tasks, allowing them to spend more time on their case loads.

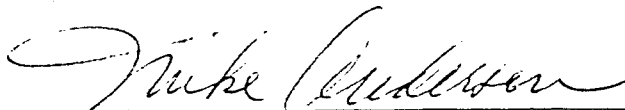
FURTHER CONSIDERATION OF SENATE BILL 14:

Senator Anderson stated that the crime of aggravated

kidnapping had been overlooked when the amendments (marked Exhibit C and attached to these minutes) were drawn up for this bill. Senator Halligan had drawn up proposed amendments (marked Exhibit B and attached to these minutes) in which misdemeanors had been added as crimes punishable by a fine. Senator Halligan moved that his amendments be adopted, and the motion passed unanimously. It was then decided that revision of amendments and the additional amendments would be referred to David Niss for further work.

FURTHER CONSIDERATION OF SENATE BILL 38:

Senator Anderson introduced Frances Elge, who is a lawyer and was an administrative law judge with the Interior Department for twenty-three years. Ms. Elge passed out copies of actual probate cases (marked Exhibit D and attached to these minutes) showing the complications which could result from passage of this bill as it is written. To avoid fractionalizing estates beyond a reasonable limit, she suggested striking from line 13, page 6, through line 11, page 7, and reinserting the language from the present law. Subsection (4) would be renumbered (3) and subsection (5) would become (4).



Senator Anderson
Chairman, Judiciary Committee

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 23, 1981

Page 1.

The twelfth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

Chairman Anderson read from letters which he had received concerning various bills the committee has considered. These letters are marked Exhibits A through C, and are attached to these minutes.

CONSIDERATION OF SENATE BILL 149:

AN ACT TO MAKE IT A MISDEMEANOR TO MAKE A
FALSE STATEMENT FOR THE PURPOSE OF
OBTAINING A CHECKING, SAVINGS, OR SHARE
DRAFT ACCOUNT FROM A FINANCIAL INSTITUTION.

The bill was presented by Senator S. Brown on behalf of Senator Van Valkenburg, who was unable to attend this meeting. Senator Brown stated that the savings and loan association supports the bill.

Michael Weigel, with the State Crime Prevention Association and member of the Missoula police, stated that check problems are increasing at a rate double that of other crimes, and that under present law nothing can be done about the offender until he actually passes a bad check -- and by that time the bank has lost money.

Jean Boyce, Operations Officer of the First Security Bank, Missoula, spoke in support of the bill.

Senator S. Brown suggested that the bill be amended on page 1, line 11, by inserting "purposely or" before "knowingly".

Senator Berg said that he felt the banks probably should already be on top of their new accounts, and that this bill would not be necessary, or even necessarily helpful in preventing false statements in setting up a new account.

Senator Olson wanted to know why savings accounts were included in line 13, and was told by Ms. Boyce that the opening of a new savings account entitles a customer to

Jan 23

the other services offered by the bank, including cashing out-of-town checks.

Senator S. Brown stated that Senator Van Valkenburg would come to the executive session when this bill would be decided.

CONSIDERATION OF SENATE BILL 145:

AN ACT TO INCREASE FROM \$1,500 to \$7,500
THE VALUE OF AN ESTATE THAT MAY BE ADMIN-
ISTERED USING THE SMALL ESTATE SUMMARY
PROCEDURE; AMENDING SECTIONS 72-3-1101,
72-3-1103, and 72-3-1104, MCA.

This bill was presented by Senator Hager, who stated that attorneys, including Senator Turnage, support the bill.

J. C. Weingartner said that this bill would hasten most estate settlements, and said that the State Bar Association supports its passage.

DISPOSITION OF SENATE BILL 145:

✓ Senator S. Brown moved that the bill DO PASS. This motion carried unanimously.

AMENDMENT OF SENATE BILL 149:

Senator S. Brown moved to amend the bill on page 1, line 11, by inserting after the word "who", the words "purposely or". This motion was passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 14:

David Niss stated that by including all of the felonies for which there is no fine currently allowed, he has had to amend this bill and also go back into all sections defining the individual offense to amend the punishment for felonies. Senator Anderson said that he feels the bill has enough merit to warrant this additional effort.

FURTHER CONSIDERATION OF SENATE BILL 24:

The proposed amendments (marked Exhibit D and attached to these minutes) have been approved by J. C. Weingartner and by Senator Hafferman.

Senator S. Brown suggested taking the words "district" and "judge" out in both places that the words appear in the amendment. He also suggested striking "Section 1" at the

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 4, 1981

The nineteenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE JOINT RESOLUTION 4:

TO URGE CONGRESS AND FEDERAL BRANCHES
TO IMPLEMENT WAYS TO MAKE GROUPS INTERVENING IN
CONSTRUCTION OF ENERGY FACILITY PROCEEDINGS
RESPONSIBLE FOR THEIR ACTS.

Senator Hafferman, District 11, Lincoln County, introduced the bill. He then introduced into the record signed petitions supporting passage of this resolution (marked Exhibit A and attached to these minutes), and spoke briefly about the importance to this state and nation of acquiring added energy sources.

Speaking briefly but fervently in support of the bill were: Jim Challinor, Libby; Bob Dennis, Libby, President and stockholder of B & J Homes, Inc.; Clarence Johnson, Libby; Don Allen, Executive Director of the Montana Petroleum Corporation; Peter Jackson, Executive Director of the W. E. T. A.; Pat Stuart, from the Coal Council, who offered an amendment (marked Exhibit B and attached to these minutes); F. H. Boles, President of the Montana Chamber of Commerce; George Johnston, ASARCO; Bill Hand, Montana Mining Association; Charlie Crane, Montana Water Development Association; and Pat Wilson, of Montco.

Senator Crippen stated that he felt the bill would deprive the environmentalists of the right to judicial review, while leaving that option open to the developing corporations.

DISPOSITION OF SENATE JOINT RESOLUTION 4:

Senator Olson moved that the bill be amended as shown on Exhibit B attached to these minutes. In a roll call vote his motion failed five to four. Senator Olson then moved that the bill pass as it stands; this motion also failed on a five to four roll call vote. Senator Crippen then moved that the bill DO NOT PASS, and his motion carried five to

four. The previous roll call vote was reversed by a unanimous decision.

FURTHER CONSIDERATION OF SENATE BILL 14:

David Niss reported that there would be ninety-seven sections of law affected by the change in the felony penalty approved by the committee. He then said that he would check into the possibility of using a codification instruction to eliminate some of the work which would be required in amending so many sections of law.

DISPOSITION OF SENATE BILL 38:

Senator Anderson suggested that it become an interim matter to be handled next session. Senator Berg moved that the bill do not pass. His motion failed. Senator Crippen then moved that the bill be amended on page 6 as shown on the attached Committee Report, and his motion passed unanimously. Senator Mazurek then moved that the bill be further amended on pages 20, 21, and 23, as shown on the attached Committee Report; and the motion passed unanimously. Senator Mazurek then moved that the bill DO PASS AS AMENDED, and the motion passed unanimously. David Niss was charged with drafting a statement of intent to accompany the Committee Report.

FURTHER CONSIDERATION OF SENATE BILL 286:

Senator Anderson said that he would discuss with Senator Van Valkenburg the problems the committee has with the repealers.

DISPOSAL OF SENATE BILL 174:

Senator Halligan moved that the bill DO PASS. Senator Crippen's vote was the only one in opposition to the motion.

FURTHER CONSIDERATION OF SENATE BILL 182:

David Niss will have complete by February 5 an amendment to remove any legal requirements now in state law that a licensed physician or nurse administer the lethal injection.

Chairman Anderson brought up the information he had collected relative to suggested committee bills which would possibly originate in this committee. Senator Berg moved that a bill or bills be drafted by David Niss relative to the matters brought up by the Jardine, Stephenson, Blewett & Weaver law firm, concerning Sections 39-3-206 and 214, MCA, and Section 71-1-320, MCA. His motion carried unanimously.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 7, 1981

The twenty-second meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF SENATE BILL 14:

Senator S. Brown moved that the amendments, illustrated on the attached Committee Report, be adopted. His motion passed unanimously. He then moved that the bill DO PASS AS AMENDED, and that motion carried unanimously.

DISPOSITION OF SENATE BILL 120:

Senator S. Brown moved that the amendments, illustrated on the attached Committee Report, be adopted. His motion passed with Senators Mazurek and Tveit opposing. Senator S. Brown then moved that the bill DO PASS AS AMENDED, and the motion carried with Senators Crippen, Mazurek and Tveit opposing, and Senator Berg abstaining.

DISPOSITION OF SENATE BILL 164:

Senator Anderson moved that the bill be amended on page 2, line 3, by striking "6" and inserting "2". Senator S. Brown substituted "3" for "2", and his motion carried with Senators Anderson and Berg in opposition.

It was moved that the first amendment on the attached Committee Report be adopted; and it carried with Senators Crippen and Olson in opposition.

Senator S. Brown moved for adoption of the sixth and seventh amendments on the attached Committee Report, and his motion carried unanimously.

Senator S. Brown then moved that the third, fourth, fifth and eighth amendments on the attached Committee Report be adopted, and his motion carried with Senators Berg and Crippen opposing.

Senator S. Brown's motion that the bill DO PASS AS AMENDED carried with Senator Crippen in opposition.

ROLL CALLJUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/07/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)			✓

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 7, 1921

MR. ~~PRESIDENT~~

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 14

Respectfully report as follows: That SENATE Bill No. 14
be amended as follows:

1. Title, line 7.
Following: "FELONY"
Insert: "AND MISDEMEANOR"

2. Page 1, line 12.
Following: "felony"
Insert: "and misdemeanor"

3. Page 1.
Following: line 14
Insert: "of imprisonment"

4. Page 1, line 15.
Following: "fine"
Insert: ", only in accordance with subsection (3), and in lieu of
or in addition to a sentence of imprisonment"
Strike: "Except as"
Insert: "For those crimes for which penalties are"

DO:PASS

continued

.....February 7, 19 81.....

5. Page 1, line 17.

Following: "45-5-401(2),"

Insert: "45-5-502(3),"

6. Page 1.

Following: line 18

Strike: "in lieu of or"

Insert: "in accordance with subsection (3)"

7. Page 1.

Following: line 19

Insert: "(2) Whenever, upon a verdict or plea of guilty, a person has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the court may impose a fine only in accordance with subsection (3)."

Re-number: subsequent sections

8. Page 2, line 1.

Strike: "The"

Insert: "Any"

Following: "fine"

Insert: "levied under this section in a felony case"

Following: "court"

Insert: "not to exceed \$50,000"

9. Page 2.

Following: line 3

Insert: "or misdemeanor"

10. Page 5, line 22.

Following: "instruction."

Insert: "(1)"

11. Page 5.

Following: line 25

Insert: "(2) There is added to those sections listed in subsection (1) of section 1, following the language in those sections specifying the term of imprisonment for which an offender may be imprisoned, the words "and may be fined not more than \$50,000" or other similar language allowing the court to fine the offender a maximum of \$50,000 in addition to a term of imprisonment. The code commissioner shall change the listed sections in accordance with this section and may make minor incidental adjustments consistent with this section as may be necessary to reflect the intent of this section without changing the meaning of the listed sections as amended by this section.

(3) There is added to those sections listed in subsection (4) of this section, following any language in those sections specifying the term of imprisonment for which an offender may be imprisoned but without specifying a fine that may be ordered to be paid, the words "or shall be punished by a fine of not more than \$50,000 or

continued

February 7, 1981

by both such fine and imprisonment", or other similar language allowing the court to fine the offender a maximum of \$50,000 in lieu of imprisonment or to punish the offender by both a fine and imprisonment. The sole commissioner shall change the listed sections in accordance with this section and may make minor incidental adjustments consistent with this section as may be necessary to reflect the intent of this section without changing the meaning of the listed sections as amended by this section.

(4) 13-27-205, 13-27-206, 19-11-207, 20-9-435, 23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104, 45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304, 45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101, 45-6-102, 45-6-103, 45-6-204, 45-6-301, 45-6-315, 45-6-317, 45-6-325, 45-6-327, 45-7-101, 45-7-102, 45-7-201, 45-7-206, 45-7-207, 45-7-208, 45-8-106, 45-8-215, 45-8-313, 45-8-334, 45-8-335, 45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 45-18-213, 45-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 and 81-9-118."

And, as so amended,
DO PASS

Mike Anderson
Chairman.

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
March 6, 1981

The meeting of the House Judiciary Committee was called to order by Chairman Kerry Keyser at 8:00 a.m. in Room 437 of the Capitol. All members were present except Rep. Iverson, Rep. Matsko, and Rep. Huennekens, who were excused. Jim Lear, Legislative Council, was present.

SENATE BILL 119 SENATOR OCHSNER, chief sponsor, stated this bill is to revise the duties of district court clerks.

DAN BUKVICH, Clerk of District Court, was in favor of the bill.
EXHIBIT 1.

There were no further proponents.

There were no opponents.

The Senator closed the bill.

REP. KEYSER asked if the sections that were being repealed with this bill were covered in other areas of law. BUKVICH replied yes.

SENATE BILL 120 SENATOR OCHSNER, chief sponsor, stated this bill is to revise the law relating to juries. It raises the pay of the jurors that are selected. It also designates the clerk of the court as jury commissioner.

CLARA GILREATH, Clerk of District Court, supports the bill. It updates the administrative procedure. It allows the clerk to be appointed jury commissioner. Current law requires the judge to select jurors one by one through a drawing of capsules. In the smaller counties where a judge is only available once a month the clerks are taking over this responsibility presently. This bill will make their actions legal.

LORRAINE VAN AUSTOL, Clerk of the Court in Bozeman, stated this bill is to help make it easier for calling of the jury. The judges in her county support the bill. A juror who is called and does not serve will receive an appearance fee of \$12.00. Those who are selected for the jury will receive \$25.00 per day.
EXHIBIT 2.

There were no further proponents.

There were no opponents.

SENATOR OCHSNER closed the bill.

REP. KEEDY asked about excused jurors. GILREATH replied many jurors come in and do not sit at the questioning. Before the court session begins they ask for an excuse to leave. It happens more than what some people realize. REP. EUDAILY asked who approves

MIKE MELOY, Montana Trial Lawyers Association, opposed the bill. This bill makes it clear that negligence applies whether guilty or not. MELOY did not like lines 21-25 on page 1 of the bill. The plaintiff should be able to chose who he wants to sue. Trial lawyers are likely to sue the person most likely to prevail on a particular case. That permits the defendant to bring in many people.

There were no further proponents.

In closing, SENATOR MAZUREK stated it is the courts job to decide who is responsible. Anyone of the defendants should be able to sue by one lawsuit. It is a function of the court.

REP. HANNAH asked what the supreme court's opinion was. SENATOR MAZUREK replied the supreme court examined the legislative history. They suggest this is a matter for the legislature to work out.

REP. EUDAILY asked about 19a in the bill. Should it be 19b? SENATOR MAZUREK replied it should be 19b but it might be more appropriate to leave it just as 19 to accomplish the intent of the bill.

There was no further discussion on the bill.

SENATE BILL 14 SENATOR TOWE, chief sponsor, stated this bill's purpose is to amend 46-18-201 providing for fines and assessment of costs in felony criminal cases. There are certain white collar crimes, where for a variety of reasons, incarceration is not a likely solution, yet nothing else is available. It is to add to punishments. It also provides that the individual can be required to pay the court costs.

Section 1 provides in felony cases where penalties of imprisonment may be imposed. Crimes against the body are in addition to that. It does not make sense to fine the criminal. If he is not able to pay the fine he must take into account the nature of the burden.

Section 4 limits the amount to \$50,000. In addition to the fine or in lieu of the fine, he may be required to pay court costs, transportation costs, witness fees, etc., depending on if he can pay the costs. The only way to revoke this is if he fails to make a good faith effort to pay. Installment payments are available.

This bill puts money into the general county fund. Section 6 of the bill makes it govern to existing law.

TOM HONZEL, County Attorneys, supports the bill. There were a number of felony cases that did provide for fines. In aggravated assault

cases, the defendant could be fined up to \$10,000.

Judges were imposing fines for deferred sentences. The Code Commissioners and County Attorneys thought the court did have that authority. This would give us a needed option. It would help out in theft cases and white-collar crimes.

MIKE STEPHEN, Montana Association of Counties, supports the bill. Counties pay 83% of the cost currently. While they do benefit from the money there is also an option of not putting that person in prison. Many times that is the option of the judge. STEPHEN feels this bill gives good flexibility.

There were no further proponents.

There were no opponents.

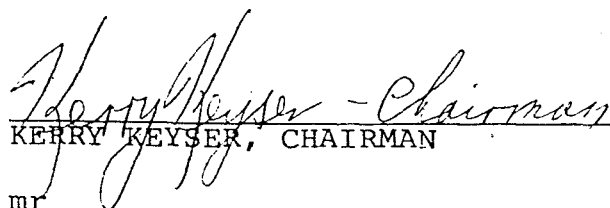
The Senator closed the bill.

REP. BENNETT asked about two separate embezzlement crimes, one involving a bank employee and the other the bank president. The Senator replied it would depend on the judge in each particular case as to the outcome.

REP. KEYSER asked about the installment payments. The sponsor replied the criminal would pay monthly installments until the debt was cleared. If he did not pay he would be picked up and thrown in jail.

That ended the discussion on Senate Bill 14.

The meeting adjourned at 10:30 a.m.


KERRY KEYSER, CHAIRMAN
mr

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

SENATE

BILL 14

Date 3/6/81

SPONSOR Towe

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
March 10, 1981

The executive session of the House Judiciary Committee was called to order at 9:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser. All members were present except Rep. Huennekens, who was excused and Rep. Bennett, who was absent. Jim Lear, Legislative Council, was present.

SENATE BILL 14 REP. DAILY moved do not pass.

REP. DAILY felt this would punish the poor and benefit the rich.

REP. CONN made a substitute motion of do pass. This may provide some punishment for people who commit white collar crimes.

REP. DAILY responded the rich people know the judges, therefore, the rich people will receive the fine and the poor people will go to jail.

REP. YARDLEY supported the substitute motion. County attorneys have been supporting this type of legislation for years. This gives a more realistic measure to go by.

REP. HANNAH stated the committee has been saying the judges are too subjective. This bill is a step in the wrong direction. We are condoning a system nobody likes. Page 3 of the bill, lines 1-8 indicate if he loses his job there is no penalty. REP. HANNAH felt this was a questionable bill.

REP. CONN stated it would be punitive to punish the entire family when it was the father who committed the action.

REP. KEYSER stated he felt the installment payment plan of the bill was a problem, however, the person could be brought back in for missing a payment, which might be a deterrent.

The motion of do pass resulted in a roll call vote. Those voting yes were: KEYSER, CONN, EUDAILY, IVERSON, MATSKO, ANDERSON, ABRAMS, KEEDY, YARDLEY, TEAGUE and BROWN. Those voting no were: SEIFERT, HANNAH, MCLANE, DAILY, and SHELDEN. The motion carried 11 to 5.

SENATE BILL 120 REP. DAILY moved do pass.

REP. BROWN moved to strike sections 2, 3, and 8 from the bill. The motion carried unanimously.

REP. DAILY moved do pass as amended. The motion carried unanimously.

SENATE BILL 159 REP. KEEDY moved to strike the new section, page 4, lines 15-24 and to renumber subsequent sections. The motion carried.

SENATE BILL NO. 14

INTRODUCED BY TOWE

BY REQUEST OF COMMITTEE

ON CORRECTIONS POLICY AND FACILITY NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND ASSESSMENT OF COSTS IN FELONY AND MISDEMEANOR CRIMINAL CASES; ALLOWING COMMUNITY SERVICE AS A CONDITION OF DEFERRED OR SUSPENDED SENTENCES; AMENDING SECTION 46-18-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Fines in felony AND MISDEMEANOR cases. (1) Whenever, upon a verdict or a plea of guilty, a person has been found guilty of an offense for which a felony penalty OF IMPRISONMENT could be imposed, the court may impose a fine, ONLY IN ACCORDANCE WITH SUBSECTION (3), AND IN LIEU OF OR IN ADDITION TO A SENTENCE OF IMPRISONMENT. Except-as FOR THOSE CRIMES FOR WHICH PENALTIES ARE provided in 45-5-103(2), 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2), a fine may be imposed in ~~lieu-of-or~~ IN ACCORDANCE WITH SUBSECTION (3) in addition to a sentence of imprisonment.

(2) WHENEVER, UPON A VERDICT OR PLEA OF GUILTY, A PERSON HAS BEEN FOUND GUILTY OF AN OFFENSE FOR WHICH A

MISDEMEANOR PENALTY OF A FINE COULD BE IMPOSED, THE COURT MAY IMPOSE A FINE ONLY IN ACCORDANCE WITH SUBSECTION (3).

~~(2)(3)~~ The court may not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine. In determining the amount and method of payment, the court shall take into account the nature of the crime committed, the financial resources of the defendant, and the nature of the burden that payment of the fine will impose.

~~(3)(4)~~ The ANY fine LEVIED UNDER THIS SECTION IN A FELONY CASE shall be in an amount fixed by the court NOT TO EXCEED \$50,000.

NEW SECTION. Section 2. Payment of costs by defendant. (1) A court may require a convicted defendant in a felony OR MISDEMEANOR case to pay costs, as defined in 25-10-201, plus costs of jury service as a part of his sentence. Such costs shall be limited to expenses specifically incurred by the prosecution in connection with the proceedings against the defendant.

(2) The court may not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(3) A defendant who has been sentenced to pay costs

1 and who is not in default in the payment thereof may at any
 2 time petition the court that sentenced him for remission of
 3 the payment of costs or of any unpaid portion thereof. If
 4 it appears to the satisfaction of the court that payment of
 5 the amount due will impose manifest hardship on the
 6 defendant or his immediate family, the court may remit all
 7 or part of the amount due in costs or modify the method of
 8 payment.

9 NEW SECTION. Section 3. Fine or costs as a condition
 10 on suspended or deferred sentence. (1) Whenever a defendant
 11 is sentenced to pay a fine or costs under [section 1 or 2]
 12 and the imposition or execution of the rest of his sentence
 13 is deferred or suspended, the court may make payment of the
 14 fine or costs a condition for probation.

15 (2) A suspended or deferred sentence may not be
 16 revoked if the defendant defaults on the payment of the fine
 17 and the default is not attributable to an intentional
 18 refusal to obey the order of the court or a failure to make
 19 a good faith effort to make the payment.

20 NEW SECTION. Section 4. When payment of fine or costs
 21 due. Whenever a defendant is sentenced to pay a fine or
 22 costs under [section 1 or 2], the court may grant permission
 23 for payment to be made within a specified period of time or
 24 in specified installments. If no such permission is included
 25 in the sentence, the payment is due immediately.

1 NEW SECTION. Section 5. Disposition of money
 2 collected as fines and costs. The money collected by a court
 3 as a result of the imposition of fines or assessment of
 4 costs under the provisions of [sections 1 and 2] shall be
 5 paid to the county general fund of the county in which the
 6 court is held.

7 Section 6. Section 46-18-201, MCA, is amended to read:
 8 "46-18-201. Sentences that may be imposed. (i)
 9 whenever a person has been found guilty of an offense upon a
 10 verdict or a plea of guilty, the court may:

11 (a) defer imposition of sentence, excepting sentences
 12 for driving under the influence of alcohol or drugs, for a
 13 period not exceeding 1 year for any misdemeanor or for a
 14 period not exceeding 3 years for any felony. The sentencing
 15 judge may impose upon the defendant any reasonable
 16 restrictions or conditions during the period of the deferred
 17 imposition. Such reasonable restrictions or conditions may
 18 include:

19 (i) jail base release;
 20 (ii) jail time not exceeding 90 days;
 21 (iii) conditions for probation;
 22 (iv) restitution;
 23 (v) payment of a fine as provided in [section 1];
 24 (vi) payment of costs as provided in [sections 2 and

25 3];

(vii) community service;

~~(v)~~ (viii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or

fvtt(ix) any combination of the above.

(b) suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Such reasonable restrictions or conditions may include any of those listed in subsections (1)(a)(i) through (1)(a)(ix).

(c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in [section
21;

~~for~~ (e) commit the defendant to a correctional institution with or without a fine as provided by law for the offense;

f) (f) impose any combination of subsections (1)(b) through (1)(e) and (1)(d) through (1)(e).

(2) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, any elapsed time, except jail time, is not a credit against the sentence unless the court orders otherwise.

(3) except as provided in 46-18-222, the imposition or

execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2).

(4) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102(2) may not be deferred or suspended."

Section 7. Codification instruction. (1) It is intended that sections 1 through 5 be codified as an integral part of Title 46, chapter 18, and the provisions of Title 46, chapter 18, apply to sections 1 through 5.

(2) THERE IS ADDED TO THOSE SECTIONS LISTED IN SUBSECTION (1) OF SECTION 1, FOLLOWING THE LANGUAGE IN THOSE SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH AN OFFENDER MAY BE IMPRISONED, THE WORDS "AND MAY BE FINED NOT MORE THAN \$50,000" OR OTHER SIMILAR LANGUAGE ALLOWING THE COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN ADDITION TO A TERM OF IMPRISONMENT. THE CODE COMMISSIONER SHALL CHANGE THE LISTED SECTIONS IN ACCORDANCE WITH THIS SECTION AND MAY MAKE MINOR INCIDENTAL ADJUSTMENTS CONSISTENT WITH THIS SECTION AS MAY BE NECESSARY TO REFLECT THE INTENT OF THIS SECTION WITHOUT CHANGING THE MEANING OF THE LISTED SECTIONS AS AMENDED BY THIS SECTION.

1 (3) THERE IS ADDED TO THOSE SECTIONS LISTED IN
 2 SUBSECTION (4) OF THIS SECTION, FOLLOWING ANY LANGUAGE IN
 3 THOSE SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH
 4 AN OFFENDER MAY BE IMPRISONED BUT WITHOUT SPECIFYING A FINE
 5 THAT MAY BE ORDERED TO BE PAID, THE WORDS "OR SHALL BE
 6 PUNISHED BY A FINE OF NOT MORE THAN \$50,000 OR BY BOTH SUCH
 7 FINE AND IMPRISONMENT", OR OTHER SIMILAR LANGUAGE ALLOWING
 8 THE COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN LIEU
 9 OF IMPRISONMENT OR TO PUNISH THE OFFENDER BY BOTH A FINE AND
 10 IMPRISONMENT. THE CODE COMMISSIONER SHALL CHANGE THE LISTED
 11 SECTIONS IN ACCORDANCE WITH THIS SECTION AND MAY MAKE MINOR
 12 INCIDENTAL ADJUSTMENTS CONSISTENT WITH THIS SECTION AS MAY
 13 BE NECESSARY TO REFLECT THE INTENT OF THIS SECTION WITHOUT
 14 CHANGING THE MEANING OF THE LISTED SECTIONS AS AMENDED BY
 15 THIS SECTION.

16 (4) 13-27-205, 13-27-206, 19-11-207, 20-9-435,
 17 23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104,
 18 45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304,
 19 45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101 THROUGH
 20 45-6-103, 45-6-204, 45-6-301, 45-6-316, 45-6-317, 45-6-325,
 21 45-6-327, 45-7-101, 45-7-102, 45-7-201, 45-7-206 THROUGH
 22 45-7-208, 45-8-106, 45-8-215, 45-8-318, 45-8-334, 45-8-335,
 23 45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 46-18-213,
 24 46-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 AND
 25 81-9-118.

-End-